



The EPA Regulatory Cascade: What Can State Legislatures Do?

American Legislative Exchange Council
Washington, D.C.
December 2, 2010

PRESENTED BY

Peter Glaser
Troutman Sanders LLP
401 9th Street, NW
Suite 1000
Washington, DC 20004
202.274.2950

www.troutmansanders.com



TROUTMAN
SANDERS



Cap and Trade is Dead

What Is Administration Plan Next?

Obtain Same Result Through
Regulation:

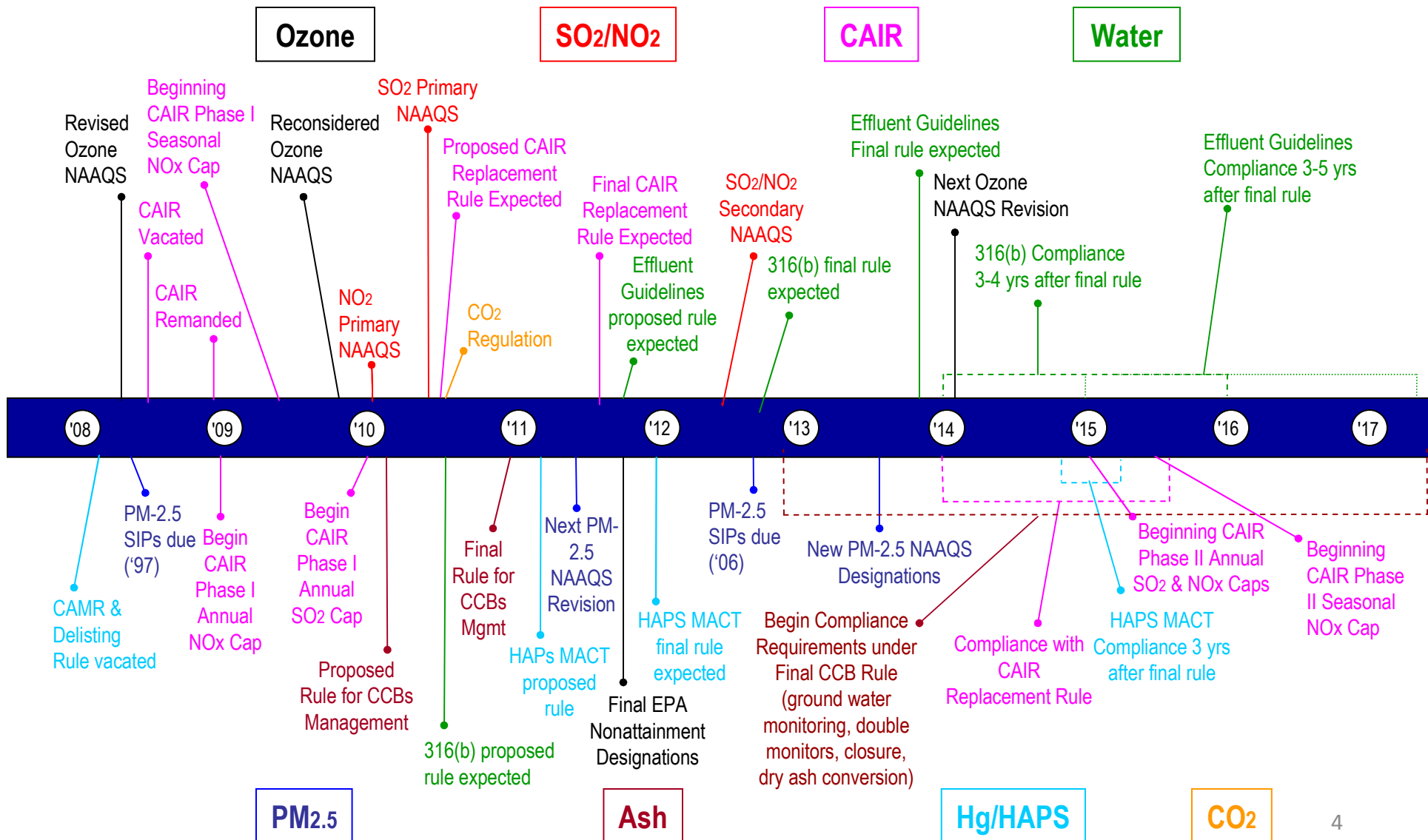
“We may end up having to do it in chunks,
as opposed to some sort of comprehensive
omnibus legislation.”

Pres. Obama interview with *Rolling
Stone*, 9/28/10

The EPA Regulatory Train Wreck



Environmental Regulatory Timeline for Coal Units



And This Is Just a Small Part of It

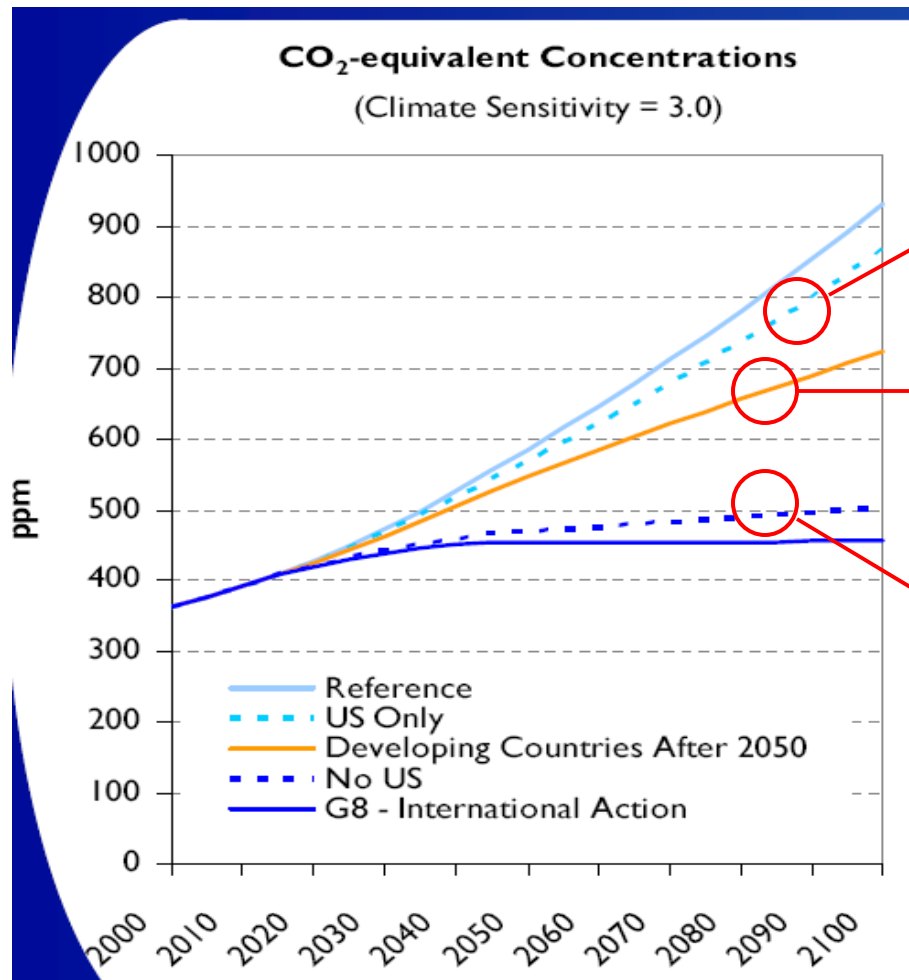
- In the next year or two, EPA will be proposing GHG gas regulation of everything: from large industrial and manufacturing facilities to cars, trucks and buses, to farm equipment, to any kind of mobile equipment like fork lifts and lawn mowers, to ships and boats
- EPA as the regulator of everything, because everything runs on fossil fuels – 85% of domestic energy



What Will This Accomplish?

- Nothing
- Because Developed Country emissions are relatively level, while Developing Country emissions are rising steeply: a coal plant a week in China


EPA Projection of Atmospheric GHG Concentrations if U.S. Acts Unilaterally or With Developing Countries



➤ Unilateral U.S. action achieves almost nothing

➤ If developing countries don't reduce until 2050, GHGs still accumulate in atmosphere

➤ To stabilize emissions, developing countries must significantly reduce at the same time as developing nations (the "G8" scenario)



EPA Admits: No Benefits from EPA Regulation of GHGs

- Auto Rule (according to EPA analysis):
 - CO₂ in atmosphere will be reduced by 2100 by 2.9 ppm (vs. almost 400 ppm today)
 - global mean temperature will be reduced by 0.006-0.015° C
- Stationary Source Rules. EPA: we don't know, we haven't studied it

What Will All the Regulations Cost?

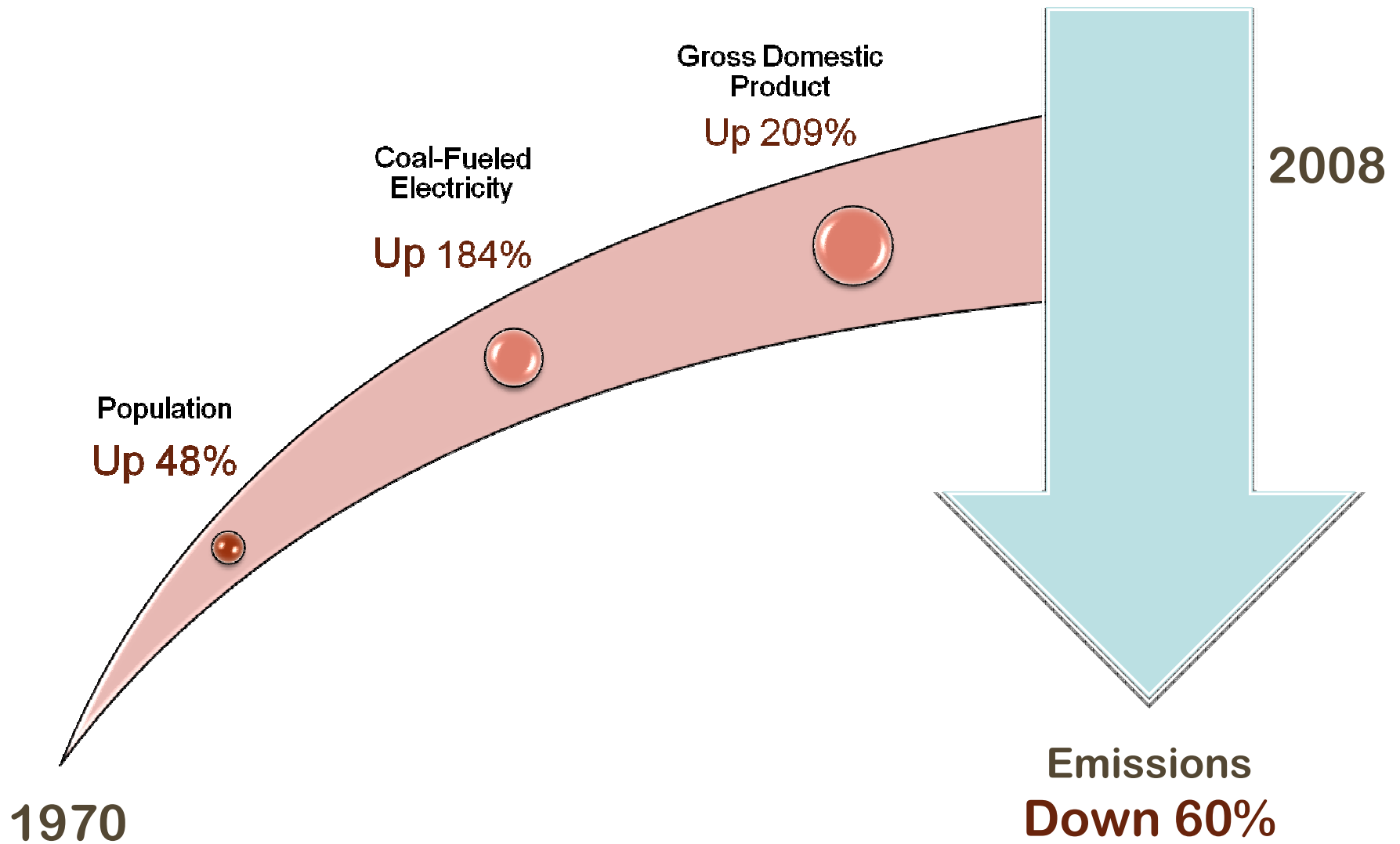
- EPA has not studied that either
- Job losses? Effect on GDP?
Number of businesses relocating overseas? They don't know
- But independent studies show 15-33% of coal-fired electric generation is in peril in next few years, threatening reliability of electric grid

Administration's Climate Change Policy?



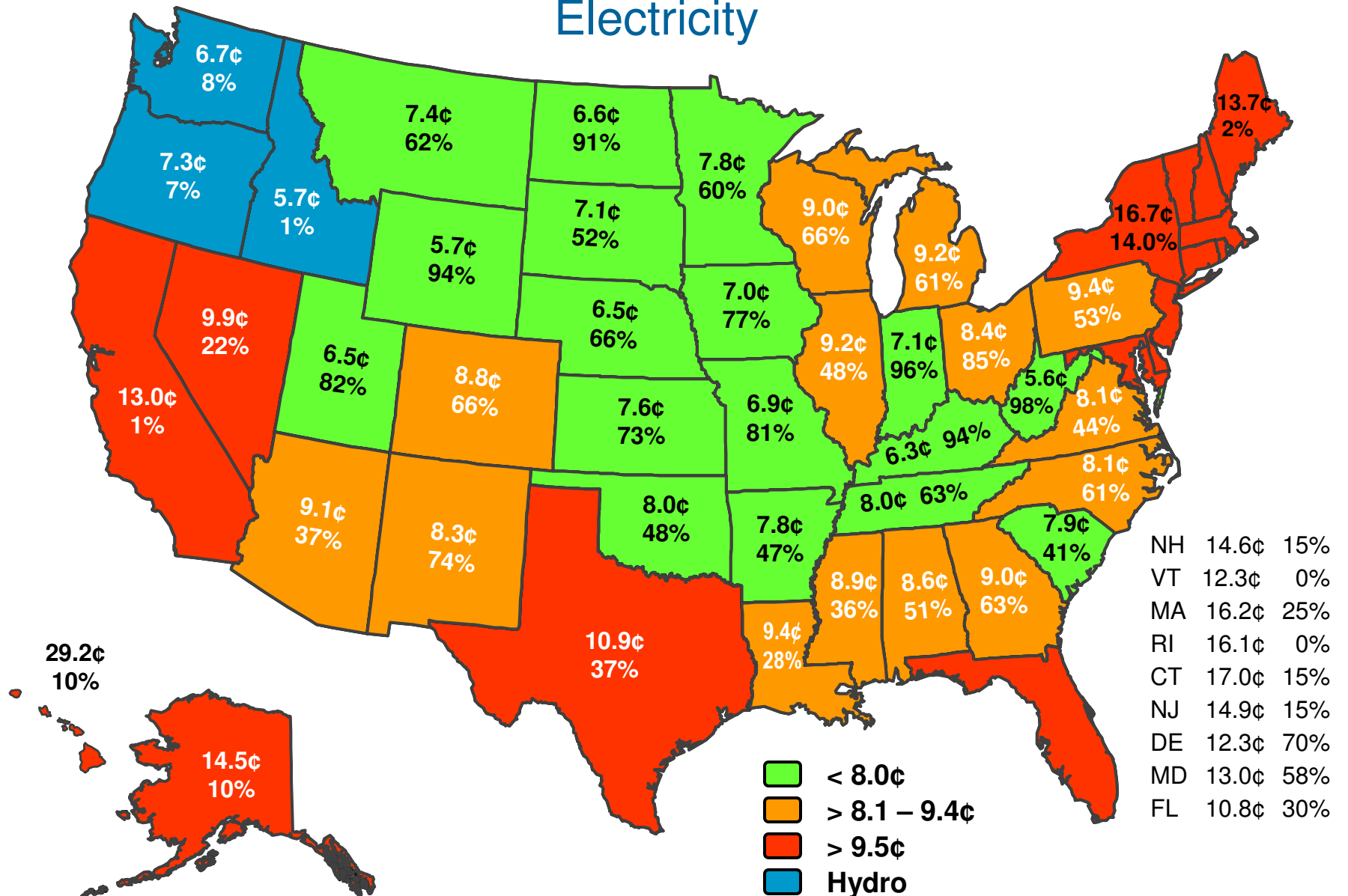
"Sorry, Harold, but I'm reducing our carbon footprint."

Emissions vs. Growth



Source: epa.gov/airtrends/images/comparison70.jpg, epa.gov/air/emissions and www.eia.doe.gov/emeu/aer/pdf/pages/sec8_17.pdf

Retail Electric Rates and Use of Coal for Electricity



What Can a State Legislature Do?

Raise your voice

EPA and the Administration need to understand that Middle America is pushing back

First quarter may be decisive

25-30 state resolutions asking EPA to pause on new rulemakings except in case of health or environmental emergency

For now, economic recovery must come first